

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Adler	Team: Squad #1	CCRB Case #: 202102170	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/23/2021 1:45 AM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 79	18 Mo. SOL 9/23/2022	EO SOL 9/23/2022	
Date/Time CV Reported Tue, 03/23/2021 2:21 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/05/2021 11:14 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Casey Thomas	09646	961367	WARRSEC
2. SGT Peter Litra	01197	951925	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Sukhvinder Tak	12948	957202	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.POF Casey Thomas	Abuse: Police Officer Casey Thomas refused to show the arrest warrant to § 87(2)(b)	§ 87(2)(b)
B.POF Casey Thomas	Abuse: Police Officer Casey Thomas entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
C.SGT Peter Litra	Abuse: Sergeant Peter Litra threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
D.SGT Peter Litra	Abuse: Sergeant Peter Litra threatened to arrest § 87(2)(b)	§ 87(2)(b)
E.SGT Peter Litra	Abuse: Sergeant Peter Litra entered § 87(2)(b), in Brooklyn.	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On March 23, 2021, § 87(2)(b) filed this complaint over the phone with IAB on her own behalf, generating original log number § 87(2)(b). The case was received by the CCRB on April 5, 2021 and assigned to Investigator Sebastian Saavedra on April 8, 2021. On June 16, 2022, the case was reassigned to Investigator Rachel Adler.

On March 23, 2021, at approximately 1:45am, PO Casey Thomas and Sgt. Peter Litra, both assigned to the warrant section, arrived at § 87(2)(b)'s home at § 87(2)(b) § 87(2)(b) in Brooklyn to enforce an I-card and several arrest warrants. PO Thomas refused to show § 87(2)(b) the warrants (**Allegation A, Abuse of Authority:** § 87(2)(g)) and then entered § 87(2)(b)'s apartment (**Allegation B, Abuse of Authority:** § 87(2)(g)). Sgt. Litra stated that if § 87(2)(b) did not allow the officers to enter her apartment, they would return the following day and kick her door open (**Allegation C, Abuse of Authority:** § 87(2)(g)). Sgt. Litra threatened to arrest § 87(2)(b) (**Allegation D, Abuse of Authority:** § 87(2)(g)) and then entered the apartment (**Allegation E, Abuse of Authority:** § 87(2)(g)). § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

No summonses were issued and no arrests were effected during this incident. There was no video evidence in this case as PO Thomas's and Sgt. Litra's command was not assigned body-worn cameras at the time.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Casey Thomas refused to show the arrest warrant to § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Casey Thomas entered § 87(2)(b) § 87(2)(b) in Brooklyn.

Allegation (C) Abuse of Authority: Sergeant Peter Litra threatened to damage § 87(2)(b)'s property.

Allegation (D) Abuse of Authority: Sergeant Peter Litra threatened to arrest § 87(2)(b)

Allegation (E) Abuse of Authority: Sergeant Peter Litra entered § 87(2)(b) § 87(2)(b) in Brooklyn.

It is undisputed that on March 23, 2021, at approximately 1:45 A.M., PO Thomas, Sgt. Litra, and PO Sukhvinder Tak, also of the warrant section, arrived at § 87(2)(b) in Brooklyn. When officers knocked on the door, § 87(2)(b) answered. The officers informed § 87(2)(b) that there were warrants for people residing at her address, including her son, § 87(2)(b). § 87(2)(b) told the officers that § 87(2)(b) was not inside the apartment at the time. PO Thomas showed § 87(2)(b) images of the warrants on her cell phone. § 87(2)(b) then told the officers that a paper warrant was required for them to enter her apartment. Sgt. Litra walked into the apartment and threatened to arrest § 87(2)(b). The officers left without effecting any arrests. PO Thomas and Sgt. Litra interacted with § 87(2)(b) while PO Tak did not.

§ 87(2)(b) testified that, in addition to a warrant for § 87(2)(b), Sgt. Litra and PO Thomas told her they had warrants for § 87(2)(b) § 87(2)(b) and an individual named § 87(2)(b) (**01 Board Review**). § 87(2)(b) told officers that § 87(2)(b) was her niece who received mail at the address but did not live there, § 87(2)(b) was her son who had not lived at the apartment for seven years, and § 87(2)(b) was a friend's daughter whom she had not seen in over 20 years.

§ 87(2)(b) did not know the individual named § 87(2)(b) and did not recall his last name. When PO Thomas showed § 87(2)(b) the cell phone image of the warrants, she could not read the text since she was not wearing her reading glasses, prompting her to tell the officers that they needed a paper warrant to enter her apartment. The officers said that they did not have a paper warrant but had the right to enter her apartment. § 87(2)(b) reiterated that she would not permit the officers to enter, stating that the officers' presence would scare her autistic daughter. PO Thomas then put her foot over the threshold of the door. When § 87(2)(b) asked why PO Thomas's foot was past the threshold, PO Thomas said that she just wanted to keep it there. § 87(2)(b) asked the officers to leave. Sgt. Litra said that if § 87(2)(b) did not allow them to enter, they would return the following day and kick her door open. Sgt. Litra also said that if § 87(2)(b) touched him, she would go to jail. After Sgt. Litra entered, he told § 87(2)(b) that the officers had to enter the apartment and § 87(2)(b) said that they did not. Sgt. Litra repeated that if officers had to return the following day, they would kick the door open. § 87(2)(b) took photos of both officers. She then called 911 and walked into another room. When she returned to the area of the front door, the officers were gone. She then looked out the front door and saw Sgt. Litra standing near the stairs. He said, "See you later," and walked away.

Attempts to contact § 87(2)(b)'s daughter, § 87(2)(b) and husband, § 87(2)(b) both of whom witnessed the incident, were unsuccessful (**02 Board Review**).

§ 87(2)(b) provided the photos she took of Sgt. Litra and PO Thomas (**03-04 Board Review**). In the photo of Sgt. Litra, he is standing several feet in front of a painted white wall with a birthday sign hanging on it and an open door behind him. The photo of PO Thomas shows her standing in front of an off-white tiled wall with the outside of an apartment door several feet to her right.

Warrant audits for March 22 and 23, 2021 show that none of the officers conducted searches for § 87(2)(b)'s name prior to arriving at § 87(2)(b)'s apartment (**11, 25 Board Review**). The March 23, 2021 results show that PO Thomas ran § 87(2)(b) name, I-card, and UF-61 at 1:33 A.M., § 87(2)(b)'s address at 1:57 A.M., and § 87(2)(b)'s warrant number 12 times between 1:58 A.M. and 2:11 A.M.

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) The address provided on the warrant is § 87(2)(b)'s address.

An investigative report (DD5) completed by PO Thomas for Brooklyn North Warrants Section Case § 87(2)(b) states that she visited § 87(2)(b) on March 23, 2021, at approximately 1:45 A.M., in an attempt to apprehend § 87(2)(b) on an I-card (**05 Board Review**). PO Thomas notes that the woman who answered the door, identified by the investigation as § 87(2)(b) said that § 87(2)(b) was her niece who did not live there and was not present. § 87(2)(b) also provided the last name of the residence as § 87(2)(b). PO Thomas showed her an active warrant for § 87(2)(b) that "comes back to the apartment." § 87(2)(b) identified § 87(2)(b) as her son who lived there but was not home and did not allow PO Thomas into the apartment.

PO Thomas's testimony was consistent with her DD5, and she made the following additions: after § 87(2)(b) said that § 87(2)(b) did not live there, PO Thomas showed her the three arrest warrants associated with the address on her cell phone (**06, 26 Board Review**). PO Thomas previously recovered these warrants through a DAS-Lite search. Besides for the active warrant from 2018 that PO Thomas recovered through this search, she had no indication that § 87(2)(b) lived at the apartment before speaking with § 87(2)(b). PO Thomas did not conduct any searches

on databases other than the DAS-Lite system that she typically uses to search for individuals' open warrants and their addresses. She did not take any additional investigative steps to prove that § 87(2)(b) still lived at the apartment. When PO Thomas showed the warrants, § 87(2)(b) did not mention that she had any trouble reading them and only stated that she wanted the officers to provide paper copies. PO Thomas had no reason to believe that § 87(2)(b) was lying about § 87(2)(b) not being at the apartment at the time and did not recall hearing any other voices inside the apartment. PO Thomas did not enter the residence because she had no probable cause to believe that § 87(2)(b) was inside. § 87(2)(b) said that she did not want officers to enter due to concerns about COVID-19 as she had a disabled daughter. Sgt. Litra told § 87(2)(b) that she could be arrested for obstruction of governmental administration (OGA) but did not specify what she was doing that constituted OGA. Neither Sgt. Litra nor any other officer mentioned arresting § 87(2)(b) for any other reason or at any other point. Sgt. Litra took one or two steps into the apartment but did not go further. PO Thomas then performed a license plate reader search on her department phone for § 87(2)(b) license plate and found it was listed at a different location. Upon seeing this, PO Thomas told Sgt. Litra that they could leave and the officers left. Neither she nor PO Tak ever crossed the apartment threshold. No officer told § 87(2)(b) that if they had to return the following day, they would kick her door down.

In line with the DD5 and PO Thomas's testimony, Sgt. Litra also testified that § 87(2)(b) stated that § 87(2)(b) lived in the apartment but was not home (**07, 27 Board Review**). His testimony was generally consistent with PO Thomas's testimony and DD5 with the following exceptions: the officers primarily arrived at the apartment to enforce the arrest warrant for § 87(2)(b) (**07, 27 Board Review**). Since the case was assigned to PO Thomas, she would have been responsible for running searches to confirm that § 87(2)(b) still lived at the apartment; he did not know what, if any searches, she conducted. After § 87(2)(b) looked at the warrant for § 87(2)(b) on PO Thomas's phone, she said that she would only allow officers to enter if they provided her with a paper warrant. Sgt. Litra told § 87(2)(b) that the arrest warrant was visible on the phone and told PO Thomas to show it to her again, which PO Thomas did. § 87(2)(b) looked at it but again insisted on seeing a paper copy. Sgt. Litra initially did not recall if he entered the apartment. After viewing § 87(2)(b)'s photograph of him inside the apartment, Sgt. Litra acknowledged that he walked a few steps into the apartment. He stated he previously had not recalled entering the apartment because he visits hundreds of locations every week and the incident had occurred more than a year prior to his CCRB interview. He entered the apartment to look for § 87(2)(b) due to the active warrant. He asked for § 87(2)(b)'s consent to enter but she refused. However, he did not need § 87(2)(b)'s consent because there was an active warrant for someone who, based on her earlier statement, lived at the apartment. Additionally, he could hear voices inside the apartment. When Sgt. Litra entered the apartment, he did not search for anyone. He stood inside the apartment while § 87(2)(b) told him he could not search for § 87(2)(b). He then told § 87(2)(b) that he could arrest her for OGA if she obstructed him from doing his job by refusing to allow him to enter. After approximately 30 seconds inside the apartment, Sgt. Litra used his discretion to leave since § 87(2)(b) was elderly and it was late at night. There were no other reasons for this decision. Although the officers left, the warrant for § 87(2)(b) provided justification for entering the apartment. PO Thomas never entered the apartment.

According to *New York Criminal Procedure Law 120.80*, an officer must show an arrest warrant to the defendant "if he has it in his possession," (**12 Board Review**). If not, the officer must show the warrant to the defendant as soon as possible after the arrest. If the officer believes the defendant is present in the dwelling of a third party, the officer must obtain a search warrant in order to enter.

NYPD Patrol Guide Procedure 208-42 states that when officers arrest someone, they must "present [the] warrant, if requested, or as soon as possible, if not possessed at time of arrest," (**13 Board**

Review). Forced entry into a third-party residence is prohibited without a search warrant.

§ 87(2)(b) acknowledged that PO Thomas showed her a cell phone image of a warrant. While § 87(2)(b) testified that she had trouble reading the text of the warrant without her reading glasses, she did not testify that she told this to the officers. Additionally, § 87(2)(b) testified that PO Thomas explained the reason for the officers' presence and provided the names of individuals with outstanding warrants. Although § 87(2)(b) believed that the officers were obligated to show her a paper warrant, *New York Criminal Procedure Law 120.80* and *Patrol Guide Procedure 208-42* shows that this is not the case and that PO Thomas followed the correct procedure regarding presenting arrest warrants. § 87(2)(g)

New York Penal Law § 195.05 states that a person is guilty of OGA when that person "intentionally obstructs, impairs or perverts the administration of law or other government function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act," **(18 Board Review)**.

According to *Payton v. New York*, 445 U.S. 573, an arrest warrant founded on probable cause provides limited authority for officers to enter a dwelling where the suspect lives if there is reason to believe that they are at home **(14 Board Review)**. According to *United States v. Luckey*, 701 F.Supp.2d 464, while officers can reasonably assume that a suspect is at their residence early in the morning, this does not apply if officers have no information placing the suspect at that residence in the weeks preceding the entry **(15 Board Review)**. According to *People v. Cabral*, 147 Misc. 2d 1000, while officers do not need to conduct a "full-scale investigation" to confirm the subject's last known home address before attempting to execute an arrest warrant, the fact that the individual lived at that premises "at some point in time does not legally transform those premises into his residence for indefinite duration," **(17 Board Review)**. In the case, an address listed for the subject six months earlier was considered insufficient proof that the subject still resided at that address.

§ 87(2)(g)

Sgt. Litra acknowledged that he entered the apartment without § 87(2)(b)'s consent. In accordance with the case law cited above, this entry was only legal on an arrest warrant if Sgt. Litra had reason to believe that § 87(2)(b) resided at the apartment *and* that § 87(2)(b) was inside the apartment at the time of the entry. The I-card for § 87(2)(b) would not have allowed for the entry as officers are not permitted to enter a residence with only an I-card. Since the warrant for § 87(2)(b) was 2.5 years old, per *People v. Cabral*, Sgt. Litra would have needed additional evidence to prove he still resided at the address. § 87(2)(b) testified that she told officers that § 87(2)(b) did not live there. If this was the case, Sgt. Litra would not have the necessary additional evidence: both he and PO Thomas testified that PO Thomas was responsible to obtain such evidence through searches and PO Thomas testified that the only proof she retrieved from her searches that § 87(2)(b) lived there was the § 87(2)(b) arrest warrant. She further testified that she did not take any further investigative steps to prove that he lived there. However, in contrast to § 87(2)(b)'s testimony, both Sgt. Litra and PO Thomas testified that § 87(2)(b) told them § 87(2)(b) lived at the apartment. If true, this would have fulfilled one of the two prongs that Sgt. Litra required to enter the apartment without consent. However, as regards the second prong – reasonable belief that § 87(2)(b) was inside the apartment at the time – both officers also testified that § 87(2)(b) told them he was not. Thus, although it was 1:45 A.M., a time when, per case law, officers can reasonably believe someone is home, Sgt. Litra would have needed evidence that § 87(2)(b)

was lying in order to reasonably believe that § 87(2)(b) was there. Sgt. Litra did not testify that he had any reason to disbelieve § 87(2)(b)'s statement. Although he testified to hearing voices inside the apartment, he did not say that he had any reason to believe the voices might belong to § 87(2)(b) specifically. Given that multiple people often live in one apartment, and that both § 87(2)(b) and PO Thomas referenced § 87(2)(b)'s statement about having a daughter who was inside the apartment, the presence of innocuous voices in an apartment is not sufficient evidence to believe a specific person is inside. Notably, PO Thomas testified that she did not recall hearing voices inside the apartment and that she had no reason to believe § 87(2)(b) was lying about § 87(2)(b) not being inside. Additionally, Sgt. Litra's decision to leave the apartment without taking further investigative actions does not support a belief that he thought § 87(2)(b) was inside. § 87(2)(g)

§ 87(2)(g)

Sgt. Litra also testified that he threatened to arrest § 87(2)(b) for OGA if she obstructed him from entering. The legitimacy of this threat is contingent upon whether the officers were permitted to enter the apartment since § 87(2)(b) would not have been guilty of OGA unless the entry was valid. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (**21 Board Review**).
- PO Thomas has been a member-of-service for six years, and has been a subject in four other CCRB complaints and six allegations, of which two were substantiated:
 - § 87(2)(g)
- Sgt. Litra has been a member-of-service for 10 years and has been a subject in two other

CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- Mediation was not offered to § 87(2)(b) as the CCRB was not offering it at the time.
- On June 15, 2022, the New York City Office of the Comptroller confirmed that § 87(2)(b) did not file a Notice of Claim in regards to this complaint (**22 Board Review**).
- § 87(2)(b)

Squad: _____ 1 _____

Investigator:	<u>Rachel Adler</u>	<u>Investigator Rachel Adler</u>	<u>10/28/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Mgr. Joy Almeyda</u>	<u></u>	<u>10.28.22</u>
	Signature	Print Title & Name	Date